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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,558	07/28/2000	Thomas J. Herder	COS99070	3287

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MCI, INC  
1133 19TH STREET NW  
WASHINGTON, DC 20036

EXAMINER

BROWN, CHRISTOPHER J

ART UNIT PAPER NUMBER

2134

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/627,558

Applicant(s)

HERDER, THOMAS J.

Examiner

Christopher J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's arguments, see filed 6/08/2005, with respect to the rejection(s) of claim(s) 1, 12, and 16 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

The examiner wishes to note that the citation the applicant uses at the bottom of page 13 (Kanevsky Col 3 lines 28-44), is not correct and is clearly missing lines 33-38. If the applicant wishes to quote the cited references, the examiner prefers that the applicant include the entirety of the quote.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616.**

As per claims 1, and 2, Buffam teaches a method of validating a user for a transaction by using a transaction card. Buffam teaches configuring a biometric profile for a user

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including a plurality of biometric samples, (Col 18 lines 18-35, 57-63). Buffam teaches associating said biometric profile with indicia, (Col 16 line 65- Col 17 line 8). Buffam teaches biometrically interrogating said user when said transaction is attempted, (Col 18 lines 65- Col 19 line 2). Buffam teaches approving the user if the biometric profiles match, (Col 17 lines 2-9).

Buffam teaches biometrics using voice recognition, including a voice pattern according to a spoken phrase (Col 18 lines 39-44). Buffam does not teach random questions.

Kanevsky teaches matching voice samples taken from answers to random questions, (Col 3 lines 28-32, 39-44). Kanevsky teaches a spoken word representative of an answer to the random questions, (Col 3 line 34). Kanevsky teaches verifying the captured spoken biometric against the correct answer in a database, (Col 3 line 36). It would have been obvious to use the random questions of Kanevsky with the voice recognition of Buffam because random questions ensure that a fraudulent user will not know the answers to gain access.

As per claim 3, Buffam teaches inputting an indicia (PIN) after the biometric response has been authenticated, (Col 17 lines 1-10).

As per claim 5, Buffam teaches configuring a biometric profile manually, (Col 18 lines 23-27).

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616 in view of Fujimoto US 5,893,057.**

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The previous Buffam-Kanevsky combination teaches biometric authentication with a Pin. Buffam-Kanevsky fails to teach asking for a PIN if the biometric authentication fails.

Fujimoto teaches using a Pin as alternative authentication in case Biometric authentication fails, (Col 14 lines 20-30).

It would have been obvious to one of ordinary skill in the art to use the alternative authentication of Fujimoto with Buffam-Kanevsky to provide an alternate method of authentication in case a users biometrics are not correct, such as a, hoarse voice, or cut finger.

**Claims 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Kanevsky US 5,897,616 in view of Glaze US 6,320,974.**

As per claims 6, and 7 The previous Buffam-Kanevsky teaches configuring a biometric profile. Buffam-Kanevsky fails to teach updating said profile.

Glaze teaches automatically updating and configuring a biometric profile in a database of biometric profiles, (Col 4 lines 30-47).

It would have been obvious to one of ordinary skill in the art to use the Glaze's updating profiles with Buffam-Kanevsky's biometric profiles because people's biometric signatures change over time.

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**Claims 8, 9, and 10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of view of Kanevsky US 5,897,616 in view of Sawyer US 6,324,271.**

As per claim 8, Buffam teaches configuring a biometric profile for a user including a plurality of biometric samples, (Col 18 lines 18-35, 57-63). Buffam teaches biometrics using voice recognition, (Col 18 lines 39-44). Buffam teaches approving the user if the biometric profiles match, (Col 17 lines 2-9). Buffam teaches inputting indicia (PIN) after the biometric response has been authenticated, (Col 17 lines 1-10).

Buffam fails to teach PSTN.

Kanevsky teaches matching voice samples taken from answers to random questions, (Col 3 lines 28-32, 39-44). Kanevsky fails to teach PSTN.

Sawyer teaches a calling card in use with a PIN and biometric authentication for use over a PSTN network, (Col 4 lines 22-30, Col 7 lines 45-51).

It would be obvious to use the PSTN because it is the most widely used means for telephonic communication.

As per claim 9 the previous Buffam-Kanevsky combination fails to teach DTMF.

Sawyer teaches use of DTMF to answer random questions, (Col 7 line 53-60).

As per claim 10, Buffam-Kanevsky teaches inputting indicia (PIN) after the biometric response has been authenticated, (Buffet Col 17 lines 1-10).

**Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of view of Kanevsky US 5,897,616 in view of Sawyer US 6,324,271 in view of Fujimoto US 5,893,057**

As per claim 11, Buffam-Kanevsky teaches biometric authentication with a Pin. Buffam-Kanevsky fails to teach asking for a PIN if the biometric authentication fails.

Fujimoto teaches using a Pin as alternative authentication in case Biometric authentication fails, (Col 14 lines 20-30).

**Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buffam US 6,185,316 in view of Sawyer US 6,324,271 in view of Chmaytelli US 6,542,729 in view of Weiss US 4,998,279**

As per claims 12, Sawyer teaches a network operable with a terminal in association with a transaction card, (Col 4 lines 20-24). Sawyer teaches a controller to handle network queries, (Col 6 lines 8-14). Sawyer teaches submitting a biometric profile for authentication, (Col 7 lines 45-52). Sawyer does not teach submitting the biometric authentication over a network. Sawyer does not teach determining if a fraudulent action is being attempted, and if so, to biometrically interrogate the user.

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Chmaytelli teaches an authentication method wherein if a user fails to enter a password correctly the system will lock. Chmaytelli teaches that the user may unlock the system by using a voice recognition procedure, (Col 8 lines 6-20).

Weiss teaches submitting biometric indicia over a telephone network to a store with biometric profiles for authentication.

It would have been obvious to one skilled in the art to use the network and biometric store of Weiss with the biometric authentication of Sawyer, so that the biometric profiles would be in a secure location.

As per claim 13, Buffam-Kanevsky combination fails to teach a calling card. Sawyer teaches the transaction to be placing a calling card call, or accessing an account, (Fig 1, Col 8 lines 64).

As per claim 14, Buffam-Kanevsky combination teaches using audio biometrics. Sawyer teaches using a voiceprint, (Col 7 line 50).

As per claim 15 Buffam-Kanevsky combination fails to teach using a fingerprint. Sawyer teaches using a fingerprint, (Col 7 line 50).

**Claims 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer US 6,324,271 in view of Kanevsky US 5,897,616 in view of Weiss US 4,998,279.**



As per claims 16, Sawyer teaches a network operable with a terminal in association with a transaction card, (Col 4 lines 20-24). Sawyer teaches a controller to handle network queries, (Col 6 lines 8-14). Sawyer teaches submitting a biometric profile for authentication, (Col 7 lines 45-52). Sawyer does not teach submitting the biometric authentication over a network. Sawyer does not teach biometric samples related to questions.

Kanevsky teaches receiving spoken answers in response to submitted questions, and verifying the user and the answers via a biometric database, (Col 3 lines 26-44).

Weiss teaches submitting biometric indicia over a telephone network to a store with biometric profiles for authentication.

It would have been obvious to one skilled in the art to use the network and biometric store of Weiss with the biometric authentication of Sawyer, so that the biometric profiles would be in a secure location.

As per claim 17, Sawyer teaches the biometric is a fingerprint, (Col 7 line 50).

As per claim 18, Sawyer teaches the biometric is voice, (Col 7 line 50).

As per claim 19, Sawyer teaches an automated response unit, (Col 7 lines 30-37).

As per claim 20, Sawyer teaches a wired phone, (Col 5 lines 50-52).

As per claim 21, Sawyer teaches an Internet phone, (Col 56-58).

As per claim 22, Sawyer teaches a wireless communication device, (Col 5 line 55).

*Conclusion*

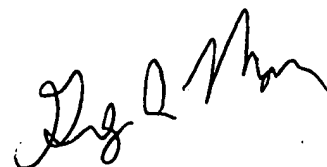
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J. Brown

8/10/2005



GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100